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10/660,239	09/11/2003	James Zicch	60680-543	5371
7590	11/13/2006		EXAMINER	
DYKEMA GOSSETT PLLC Suite 300 39577 Woodward Avenue Bloomfield Hills, MI 48304			DUNN, DAVID R	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/660,239

Filing Date: September 11, 2003

Appellant(s): ZIECH ET AL.

William F. Kolakowski III
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 8, 2006 appealing from the Office action
mailed April 6, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The rejection of claims 13 and 19 has been withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,491,314	SMITH et al.	12-2002
5,005,913	KITTLE et al.	4-1991
3,009,747	PITZER	11-1961

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (6,491,314) in view of Kittle et al. (5,005,913).

Smith et al. discloses a control arm (518; Figure 48) configured for connection to a frame of said vehicle (see Figure 49) and configured to receive an axle (524), said control arm defining a first sleeve (542) and a second sleeve (588) configured to be received within the first sleeve and about the axis (see also Figure 47). Smith et al. also shows the sleeves being a pair of circumferentially spaced portions, each having a span of 180 degrees.

Smith et al. fails to show the sleeves being tapered.

Kittle teaches a first sleeve (10) for receiving an axle (12), the sleeve having a radially inner surface which tapers (see Figure 5), a second sleeve (14a) is received in the first sleeve and about the axle and has a radially outer surface that tapers complementary to said radially inner surface of the first sleeve. The first sleeve tapers inwardly. The sleeve defines a slot which forms a pair of circumferentially shaped portions (see Figure 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Smith et al. with the teachings of Kittle et al. to provide tapered sleeves in order to better secure the axle to the control arm.

Claims 1-5, 7-12, 14, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. in view of Pitzer (3,009,747).

Smith et al. is discussed above and fails to show the sleeves being tapered.

Pitzer teaches a first tapered sleeve (20) about an axis (28) with a second sleeve (1) received within the first sleeve with a complementary taper. Pitzer also teaches a third sleeve (30) configured to be received within the first sleeve, the third sleeve abutting against a first axial end of the second sleeve (see Figure 6). The sleeve has a slot (see Figures 1-4). Pitzer also shows a fourth sleeve (see second "1" in Figure 6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Smith et al. with the teachings of Pitzer to provide tapered sleeves in order to better secure the axle to the control arm.

(10) Response to Argument

On pages 5-8, Applicant argues that the combination of Smith et al. and Kittle et al. is improper as there is no suggestion or motivation to combine and that the combination fails to disclose or suggest all the claim limitations. Specifically, on page 7, Applicant argues that sleeve 588 allows articulation of the axle and modifying the suspension of Smith et al. "to 'better secure

the axle to the control arm' would defeat the stated purpose of sheet 588" and one would not have been motivated to modify the suspension.

In response, the examiner submits that although the sheet 588 allows the axle to articulate somewhat, this does not preclude the fact that it also holds the axle in place. In other words, although the axle may have a degree of articulation to accommodate stresses due to a roll of the vehicle, the axle still must be held in place against lateral movement. The examiner maintains that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Smith et al. with the tapered sleeves as taught by Kittle et al. to provide a better hold on the axle. The axle does not move because of any looseness in the elastic element or between the control arm and the axle, but rather due to the elastic properties of the rubber sheet. Therefore, one would still want to provide a secure attachment to the axle, such as that taught by Kittle et al.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine can be found in the knowledge generally available to one of ordinary skill in the art.

On page 8, Applicant argues that Smith et al. "already discloses structure for rigidly coupling the trailing arm 518 to the axle 524 and thereby 'securing the axle to the control arm'."

Applicant notes the beam-axle connectors 564 as this securement. In response, the examiner notes that tapered sleeves, as taught by Kittle, would also help to better hold and secure the axle to the control arm during installation, before the beam axle connectors were installed. The tapered sleeves would also add the additional benefit of an easier insertion of the axle as would be apparent to one of ordinary skill in the art.

On page 9, Applicant argues the limitations of claim 3 are not shown by Kittle. Claim 3 recites that the sleeve “tapers inwardly away from each axial end of said first sleeve towards an axial midpoint of said first sleeve.” In the remarks, Applicant argues limitations which do not appear in the claim such as “narrowest at a midpoint” and “widest at either end... tapering inwardly from both ends.” The examiner maintains that the sleeve of Kittle tapers inwardly from each end, as this claim limitation depends on the perspective. From both sides, the tapered sleeve can be said to “taper inwardly... toward an axial midpoint.” In other words, starting from either outside edge, the sleeve tapers inwardly toward the midpoint, and continuing on to the other side.

On pages 10-13, Applicant argues the rejection of the combination of Smith et al. in view of Pitzer. These arguments are the same as presented with the prior combination. The examiner also maintains that this rejection is proper and repeats to the same arguments in response.

Applicant argues that the combination of Smith et al. and Pitzer is improper as there is no suggestion or motivation to combine and that the combination fails to disclose or suggest all the claim limitations. Specifically, on page 12, Applicant argues that sleeve 588 allows articulation of the axle and modifying the suspension of Smith et al. “to ‘better secure the axle to the control

arm' would defeat the stated purpose of sheet 588" and one would not have been motivated to modify the suspension.

In response, the examiner submits that although the sheet 588 allows the axle to articulate somewhat, this does not preclude the fact that it also holds the axle in place. In other words, although the axle may have a degree of articulation to accommodate stresses due to a roll of the vehicle, the axle still must be held in place against lateral movement. The examiner maintains that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Smith et al. with the tapered sleeves as taught by Pitzer to provide a better hold on the axle. The axle does not move because of any looseness in the elastic element or between the control arm and the axle, but rather due to the elastic properties of the rubber sheet. Therefore, one would still want to provide a secure attachment to the axle, such as that taught by Pitzer.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine can be found in the knowledge generally available to one of ordinary skill in the art.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

 11/1/06
David Dunn

Conferees:

David Dunn 

Paul Dickson 

Joe Morano 